

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JIM OLIVE,

Plaintiff,

v.

FOUR SEASONS HOTELS LIMITED,
FOUR SEASONS HOLDINGS INC.,
MT. JEFFERSON HOLDINGS, LLC
D/B/A FOUR SEASONS HOTEL
HOUSTON, AND TRIP.COM
TRAVEL SINGAPORE PTE. LTD,

Defendants.

CIVIL ACTION NO 4:22-cv-00325

JURY TRIAL DEMANDED

**DEFENDANT TRIP.COM TRAVEL SINGAPORE PTE LTD'S ANSWER
SUBJECT TO ITS SPECIAL APPEARANCE AND MOTION TO DISMISS**

COMES NOW, Defendant Trip.com Travel Singapore Pte. Ltd. ("Defendant" or "Trip.com") having appeared specially for the purpose of challenging personal jurisdiction files this answer to Plaintiff's First Amended Complaint.

I. LIMITED GENERAL DENIAL

Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Defendant denies all allegations contained in the Complaint except those expressly admitted below.

II. ANSWER TO PLAINTIFF'S ALLEGATIONS

In addition to its limited general denial, Defendant specifically responds to the Plaintiff's allegations as follows (which correspond to the Complaint's numbered paragraphs):

PARTIES

1. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.
2. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.
3. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3.
4. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.
5. Defendant admits the allegations contained in paragraph 5.

JURISDICTION AND VENUE

6. Paragraph 6 states a legal conclusion as to which Defendant need not respond. Defendant denies that it violated the cited statutes.
7. Paragraph 7 states a legal conclusion as to which Defendant need not respond. Defendant does not challenge subject matter jurisdiction.

8. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8.

9. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations of personal jurisdiction over the other defendants. Defendant denies the Court has personal jurisdiction over it. Defendant denies that it marketed and promoted services within the state of Texas.

10. Paragraph 10 states a legal conclusion as to which Defendant need not respond. Defendant does deny that this court is a proper venue under 28 U.S.C. § 1391(b)(2) and (b)(3). However, Defendant does not have the facts relating to the residence of the other defendants in order to form an opinion on venue under 28 U.S.C. § 1391(b)(1) or under 28 U.S.C. § 1400(a).

FACTUAL ALLEGATIONS

11. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11.

12. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12.

13. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13.

14. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14.

15. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15.

16. Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16.

17. Defendant admits that for a time period, the photograph appeared on the Four Seasons Hotel Houston's Trip.com webpage. Defendant denies the other allegations of paragraph 17.

18. Defendant admits it operates the domain www.trip.com. Defendant denies it operates each individual hotel's webpage. Defendant admits it earns commissions on hotel bookings made on its website. Defendant does not have knowledge or information sufficient to admit or deny the allegations with regard to how the other defendants earn revenue.

19. Defendant denies the allegations of paragraph 19.

20. Defendant denies the allegations of paragraph 20.

21. Defendant admits Plaintiff sent cease-and-desist letters and demanded compensation. Defendant does not have sufficient knowledge of information to form a belief as to the truth of the allegations concerning the date such correspondence was sent. Defendant denies all other allegations in paragraph 21.

22. Defendant denies that it failed to respond to Plaintiff's cease-and-desist letters. Defendant admits it did not compensate Plaintiff and denies it has any liability to Plaintiff for which compensation would be appropriate.

23. Defendant admits the photograph no longer appears on the webpage. Defendant denies all other allegations in paragraph 23.

CAUSES OF ACTION

24. Paragraph 24 contains no allegations.

25. Defendant denies the allegations of paragraph 25.

26. Defendant denies the allegations of paragraph 26.

27. Defendant denies the allegations of paragraph 27.

28. Defendant denies the allegations of paragraph 28.

29. Paragraph 29 contains no allegations.

30. Defendant denies the allegations of paragraph 30.

31. Defendant denies the allegations of paragraph 31.

32. Defendant denies the allegations of paragraph 32.

33. Defendant denies the allegations of paragraph 33.

34. Defendant denies the allegations of paragraph 34.

35. Defendant denies the allegations of paragraph 35.

36. Defendant denies the allegations of paragraph 36.

37. Defendant denies the allegations of paragraph 37.

- 38. Defendant denies the allegations of paragraph 38.
- 39. Defendant denies the allegations of paragraph 39.
- 40. Defendant denies the allegations of paragraph 40.
- 41. Defendant denies the allegations of paragraph 41.
- 42. Paragraph 42 contains no allegations.
- 43. Defendant denies the allegations of paragraph 43.
- 44. Defendant denies the allegations of paragraph 44.
- 45. Defendant denies the allegations of paragraph 45.
- 46. Defendant denies the allegations of paragraph 46.

JURY DEMAND

- 47. Paragraph 47 contains no allegations.

PRAYER FOR RELIEF

- 48. Defendant denies that Plaintiff is entitled to the relief sought in paragraph 48.

III. AFFIRMATIVE DEFENSES

- A. Defendant asserts the First Amended Complaint fails to state a claim on which relief can be granted and should be dismissed under Federal Rule of Civil Procedure 12(b)(6).
- B. Defendant asserts that on information and belief, and in reliance on the other defendants' answer, Plaintiff has provided Defendant the right to publish and use the photograph in connection with the Four Seasons Houston hotel.

- C. Defendant asserts that Plaintiff's claims and/or damages are barred by the applicable statute(s) of limitations.
- D. Defendant asserts that Plaintiff's claim or recovery is barred by the doctrines of unclean hands and inequitable conduct.
- E. Defendant asserts it is not liable to Plaintiff under the DMCA "safe harbor" provisions of 17 U.S.C. § 512.

Respectfully submitted,

Spencer Fane LLP

/s/ Erick Robinson

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was served on all counsel of record on April 29, 2022 via the court's electronic filing system.

/s/ Erick Robinson
Erick S. Robinson